

McELROY, DEUTSCH, MULVANEY & CARPENTER, LLP

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Attorneys for Defendant, Berkshire Life Insurance Company of America

By:

Steven P. Del Mauro

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

STUART BITTERMAN, M.D.,

Plaintiff,

vs.

**BERKSHIRE LIFE INSURANCE COMPANY
OF AMERICA,**

Defendant.

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: **Civil Action No. 07cv11061**
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CIVIL ACTION – NOTICE OF MOTION TO ENFORCE SETTLEMENT

TO: Ira Lipsius, Esq.
Schindel, Farman, Lipsius, Gardner & Rabinovich, LLC
14 Penn Plaza, Suite 500
New York, NY 10122

PLEASE TAKE NOTICE that at a date and time to be determined by this Honorable Court, the undersigned attorneys for defendant, Berkshire Life Insurance Company of America (“Berkshire Life”), shall apply to the United States District Court, Southern District of New York, United States Courthouse, 500 Pearl Street, New York City, New York, 10007-1312, for the following relief:

1. An order enforcing settlement agreed to by the parties on February 12, 2008.

2. **PLEASE TAKE FURTHER NOTICE** that in support of the within application Berkshire Life shall rely upon Certification of Steven P. Del Mauro, Legal Memorandum and proposed order submitted herewith.

PLEASE TAKE FURTHER NOTICE that oral argument is not requested unless timely opposition is filed and served.

McELROY, DEUTSCH, MULVANEY &
CARPENTER, LLP
Attorneys for Defendant,
Berkshire Life Insurance Company of America

By: _____

Steven P. Del Mauro

Date: July 8, 2008
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CIVIL ACTION – ORDER ENFORCING SETTLEMENT

THIS MATTER having been brought before the Court upon the application of McElroy, Deutsch, Mulvaney & Carpenter, LLP, attorneys for defendant, Berkshire Life Insurance Company of America, and upon notice to Ira Lipsius, Esq., Schindel, Farman, Lipsius, Gardner & Rabinovich, LLC, 14 Penn Plaza, Suite 500, New York, NY 10122, attorneys for plaintiff, Stuart Bitterman, M.D., and the court having reviewed all pleadings and proceedings in this matter to date, and finding good cause existing with the entry of the within order;

IT IS on this ____ day of _____, 2008,

ORDERED, that the motion by Berkshire Life Insurance Company of America seeking to enforce the settlement agreed to by the parties in February 12, 2008 is granted; and it is further

ORDERED, that the parties shall each perform their mutual obligations under the form of Settlement Agreement and Complete Release accepted by the parties on March 13, 2008, within 30 days of this order, and it is further

ORDERED, that this case is dismissed with prejudice and without costs.

Honorable Shira Scheindlin, U.S.D.J.

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Attorneys for Defendant, Berkshire Life Insurance Company of America

By: 
Steven P. Del Mauro

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STUART BITTERMAN, M.D.,

Plaintiff,

vs.

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CIVIL ACTION – CERTIFICATION OF SERVICE

I, Kimberlee A. Sandy, am employed by the firm of McElroy, Deutsch, Mulvaney & Carpenter, LLP, attorneys for Defendant, Berkshire Life Insurance Company of America, in the within matter.

On July 8, 2009, I served true and accurate copy of the within Notice of Motion to Enforce Judgment, Certification of Steven P. Del Mauro in support of Notice of Motion to Enforce Judgment, Legal Memorandum in Support of Notice of Motion to Enforce Judgment, proposed Order and this Certification of Service, in accordance with the Federal Rules of Civil

Procedure and the electronic filing rules of the United States District Court, Southern District of

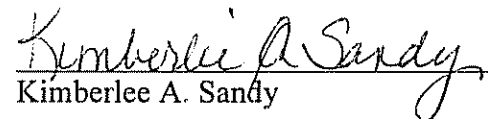
New York:

Ira Lipsius, Esq.
Schindel, Farman, Lipsius, Gardner & Rabinovich, LLC
14 Penn Plaza, Suite 500
New York, NY 10122

Together with a courtesy copy to:

Honorable Shira Scheindlin, U.S.D.J.
United States Courthouse, Room 1620
500 Pearl Street
New York City, NY 10007-1312

I HEREBY CERTIFY that all of the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.


Kimberlee A. Sandy

Date: July 8, 2008
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